

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 85333-001

v

Blue Cross and Blue Shield of Michigan
Respondent

Issued and entered
this 26th day of November 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On September 24, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the material submitted and accepted the request on October 1, 2007.

Because the appeal involved medical issues, the Commissioner assigned the case to an independent review organization (IRO), which provided its recommendations to the Commissioner on October 16, 2007.

II

FACTUAL BACKGROUND

The Petitioner received health care benefits from Blue Cross and Blue Shield of Michigan (BCBSM) under its Community Blue Group Benefit Certificate (Certificate). The Petitioner received inpatient mental health care at XXXXX from November 25, 2006 until December 6, 2006. She was then transferred to XXXXX in XXXXX, Indiana where she received

care from December 6 through December 10, 2006. BCBSM authorized and paid for the first two days of care at XXXXX but denied coverage for the remaining three days.

The Petitioner appealed BCBSM's denial of her last three days of care at XXXXX. After a managerial-level conference on July 18, 2007, BCBSM did not change its decision and issued a final adverse determination dated July 20, 2007.

III ISSUE

Did BCBSM properly deny coverage for the Petitioner's inpatient mental health care provided at XXXXX from December 8 through December 10, 2006?

IV ANALYSIS

Petitioner's Argument

The Petitioner argues she was court-ordered to the hospital because her bi-polar condition was so severe. She believes that all her care was medically necessary and a covered benefit under the BCBSM certificate.

BCBSM's Argument

It is BCBSM's position that the Petitioner's inpatient admission at XXXXX was not a covered benefit under the certificate after the first two days of care. BCBSM obtained the Petitioner's medical records from the facility and had them reviewed three times by its medical consultants to determine if she met the criteria for inpatient mental health care as defined in the Certificate. The conclusion of all three reviews was that the Petitioner did not meet the criteria for inpatient care after the first two days.

The Certificate (page 7.13) indicates that hospital services are medically necessary when:

- The covered service is for the treatment, diagnosis or symptoms of an injury, condition or disease; and
- The service, treatment, or supply is appropriate for the symptoms and is consistent with the diagnosis. . . . Appropriate means that the type, level and length of care, treatment or supply and setting is needed to provide safe and adequate care and treatment. For inpatient hospital stays, acute care as an

inpatient must be necessitated by the patient's condition because safe and adequate care cannot be received as an outpatient or in a less intensified medical setting.

BCBSM's medical consultants reviewed the Petitioner's medical records and reported:

The patient was not medically compromised. She was in behavioral control. She was cooperative with staff and interactive with peers. She was compliant with medications. She was not manic, psychotic, suicidal or homicidal. The patient's symptoms had resolved to the level that she no longer required the intensity of services of 24 hour nursing supervision in a structured setting. She could have been treated safely and effectively at a lower level of care.

Based on this conclusion, BCBSM determined that the Petitioner's inpatient mental health care was not a covered benefit after the first two days of care.

The Petitioner indicated that she was ordered to inpatient care by the court. It was not her decision to be admitted to XXXXX. Nevertheless, it is important to note the court order does not indicate that the Petitioner should be admitted for a long stay. In fact, the court order references a temporary stay not to exceed 90 days. This could mean a stay of 1 day or 90 days. Clearly, the court order allowed for the discretion of limiting the Petitioner's stay based on a determination of medical necessity.

Commissioner's Review

The Commissioner reviewed the Certificate, the arguments and documents presented by the parties, and in the IRO report. BCBSM argued that the Petitioner's inpatient mental health care was not covered because her condition did not warrant inpatient care after the first two days of care at XXXXX. This meant, under the language of the certificates, that inpatient care was not medically necessary.

The question of whether it was medically necessary for the Petitioner to be treated in an inpatient setting was presented to an IRO for analysis as required by section 11(6) of PRIRA, MCL 550.1911(6). The IRO physician reviewer in this matter is certified by the American Board of Psychiatry and Neurology in the specialty of psychiatry, is a member of the American Psychiatric

Association, a Diplomate of the American Board of Quality Assurance and Utilization Review, and is in active practice.

The IRO reviewer found that when the Petitioner was transitioned to XXXXX it appears she was rather stable. She was not acutely manic or psychotic. She was cooperative and did not display any evidence of psychosis and/or mania. She was not in any acute state of danger to herself or others.

The IRO medical consultant also indicated that prior to her transfer to XXXXX she was significantly ill with mania and psychosis and displayed evidence of potential danger to herself and others. Therefore, it would appear to be reasonable that the Petitioner should require some period of observation and evaluation in a new facility. Since she was being transferred to a new facility that had not had the opportunity to observe her and to determine her stability, it would appear reasonable that a period of 48 hours would be appropriate to observe and determine the Petitioner's stability prior to transitioning her to a less restrictive level of care.

It is the determination of the IRO medical reviewer that the denial of coverage for inpatient mental health care at XXXXX beyond the 2-day period evaluation from December 8 through December 10, 2006 should be upheld since the Petitioner did not meet criteria for inpatient care during this time and therefore the care was not medically necessary.

The IRO reviewer's recommendation is based on extensive expertise and professional judgment and the Commissioner finds no reason to reject it. Therefore, the Commissioner accepts the IRO reviewer's conclusion that the Petitioner's inpatient care at XXXXX was not medically necessary after December 7, 2006. Based on this conclusion, the Commissioner finds that the Petitioner's inpatient mental health care from December 8 through December 10, 2006, is not a covered benefit under his Certificate.

V ORDER

Respondent BCBSM's July 20, 2007, final adverse determination is upheld. BCBSM is not

required to provide coverage for the Petitioner's inpatient care provided from December 8, 2006, through December 10, 2006.

Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.